

REMARKS

In response to the above-identified Final Office Action, Applicant seeks reconsideration in view of the following remarks. In this Response, Applicant amends claims 1, 5-6, 11, 18, and 20, and cancels claim 4. Applicant does not add any new claims. Accordingly, claims 1-3 and 5-23 remain pending in the Application.

I. Claims Rejected Under 35 U.S.C. § 102

Claims 1-23 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0166081 A1 filed by Richardson et al. (“*Richardson*”). Applicant has cancelled claim 4 and respectfully traverses the rejection of claims 1-3 and 5-23, at least in view of the amendments to independent claims 1, 6, 11, and 18.

To anticipate a claim, the cited reference must disclose each and every element of the rejected claim (*see* MPEP § 2131). Among other elements, amended claim 1 defines a data-empowered test program architecture stored on a computer readable storage medium comprising the elements of: “a test framework software module associated with the plurality of control files and storing reconfigurable code for selectively performing the test in each control file, wherein the test framework software module is configured to: receive a selected control file based on a particular unit-under-test, receive, from the external source, data for reconfiguring the reconfigurable code to perform the test in the selected control file, determine how to perform the selected test, and perform the selected test” (emphasis added). Applicant submits that *Richardson* fails to disclose at least these elements of claim 1.

In making the rejection, the Patent Office does not cite *Richardson* as disclosing the elements of: “a test framework software module associated with the plurality of control files and storing reconfigurable code for selectively performing the test in each control file, wherein the test framework software module is configured to: receive a selected control file based on a particular unit-under-test, receive, from the external source, data for reconfiguring the reconfigurable code to perform the test in the selected control file, determine how to perform the selected test, and perform

the selected test,” as recited in claim 1. Moreover, in reviewing *Richardson*, Applicants are unable to discern any sections of *Richardson* disclosing such elements.

Richardson discloses “test executive software for organizing and executing test sequence files, e.g., test sequence files to measure and/or control instrumentation systems, and more particularly relates to a system and method for detecting differences between test sequence files” (*Richardson*, paragraph [0002]). *Richardson*’s system and method uses function calls to access pre-existing code modules to perform the method for detecting differences between test sequence files (see paragraphs [0072]-[0078]). In other words, the code modules are preset and the test executive chooses a particular code module based on what test needs to be performed.

By contrast, the data-empowered test program architecture stored on a computer readable storage medium defined in claim 1 comprises reconfigurable code for selectively performing the test in each control file and a “test framework software module is configured to: receive a selected control file based on a particular unit-under-test, receive, from the external source, data for reconfiguring the reconfigurable code to perform the test in the selected control file, determine how to perform the selected test, and perform the selected test.” In other words, the test framework software module defined in claim 1 is capable of reconfiguring itself, based on the data received from the external source, to perform the test in the selected control file. Therefore, *Richardson* fails to disclose each and every element of claim 1 because *Richardson* discloses a system and method that uses preset code modules, which are not reconfigurable to perform a test in a selected control file.

The failure of *Richardson* to disclose each and every element of claim 1 is fatal to the anticipation rejection. Therefore, claim 1 is not anticipated by *Richardson*. Accordingly, Applicant respectfully requests withdrawal of the rejection of independent claim 1.

Claims 2-3 and 5 depend from claim 1 and include all of the elements thereof. Therefore, Applicant submits that claims 2-3 and 5 are not anticipated by *Richardson* at least for the same reasons as claim 1, in addition to their own respective features. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 2-3 and 5.

Applicant submits that independent claims 6, 11, and 18 each recite elements similar to claim

1 discussed above. Therefore, Applicant submits that claims 6, 11, and 18 are not anticipated by *Richardson* at least for the same reasons as claim 1, in addition to their own respective features. Accordingly, Applicant respectfully requests withdrawal of the rejection of independent claims 6, 11, and 18.

Claims 7-10, 12-17, and 19-23 depend from claims 6, 11, and 18, respectively, and include all of the elements thereof. Therefore, Applicant submits that claims 7-10, 12-17, and 19-23 are not anticipated by *Richardson* at least for the same reasons as their respective independent claims, in addition to their own respective features. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 7-10, 12-17, and 19-23.

II. Claim Amendments

Applicant has amended claims 5 and 20 so that various elements recited in claims 5 and 20 are consistent with elements amended into their respective independent claims.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (480) 385-5060 or jgraff@ifllaw.com.

If necessary, the Commissioner is hereby authorized to charge payment or credit any overpayment to Deposit Account No. 50-2091 for any fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

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